CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

TENTATIVE ORDER NO. 95-213

SITE CLEANUP REQUIREMENTS FOR:

DESCO CORPORATION
150 E. CAMPUS VIEW BOULEVARD
COLUMBUS, OHIO 43235

MITEK, INC., PANEL CLIP, AND LUMBERLOK
P.O. BOX 7359
ST. LOUIS, MISSOURI 63177

AND

LINCOLN HAYWARD VI
c/o W.GARDNER COMBS
RECEIVER FOR LINCOLN HAYWARD VI
100 PRINGLE AVENUE, SUITE 550
WALNUT CREEK, CA 94596-1543

for the site located at

1029 WHIPPLE ROAD
HAYWARD
ALAMEDA COUNTY

The California Regional Water Quality Control Board, San Francisco Bay Region (hereinafter the Board), finds that:

1. **Site Location**: The Site is a 48,000 square feet warehouse, commonly known as 1029 Whipple Road. It is a portion of a 22-acre property (Property) which consists of four tilt-up-type warehouse structures (Buildings A, B, C, and D) located in an industrial area of Hayward. Building A is the Site. The Property is bounded by the Bay Area Rapid Transit (BART) District's Southern Alameda Yard on the northeast and by Union Pacific Railroad tracks and the U.S. Pipe and Foundry (U.S. Pipe) facility on the southwest. Residential areas are located east of the Property across the BART track, whereas the areas west of the Property are mostly industrial and commercial. Highway 880 is about 6,000 feet to the west of the Site.

2. **Site History**: Prior to 1970, the whole Property was used as an orchard and farmland. In the early 1970s, L.B. Foster (Foster) occupied the Property and engaged in various commercial activities including the fabrication and storage of steel tubular goods. In 1985, Foster sold the Property to Lincoln Hayward VI, which is a California limited partnership. The four (4) buildings referenced in finding 1 were constructed by Lincoln Hayward VI during 1986. Several other pre-existing structures removed at the time that the four buildings were built included a metal cutting shed, a steam cleaning pad, an oil storage shed, and underground fuel storage tanks.

Several businesses manufacturing metal fasteners occupied the northern portion of the Site from February 1987 to May 1992. On September 29, 1986, Panel Clip Company (Panel Clip) leased a portion of the Site from Lincoln Hayward VI for warehousing, manufacturing of structural components, metal fabrication, and tool and die making. In May 1988, MiTek Industries, Inc. (Mitek Industries), the sole shareholder of Panel Clip, transferred assets of Panel-Clip to Lumberlok Corporation, of which MiTek Industries was also the sole shareholder. In July 1988, MiTek Industries dissolved Panel Clip, and the Property lease was amended on January 27, 1989 to reflect the change of tenant's name from Panel Clip to Lumberlok Corporation. On January 30, 1989, Lumberlok Corporation assigned its Property lease to Desco Corporation (Desco). Desco purchased all assets, including the tradename "Lumberlok", and the lease and operations at the Site from MiTek Industries, and continued to do business as "Lumberlok" or "Teco/Lumberlok". As the tradename of "Lumberlok" was sold to Desco, MiTek changed the name of Lumberlok Corporation (which was only a shell company) to Lynntech Corporation on March 14, 1989, which was subsequently dissolved by MiTek on January 16, 1990. In June 1992, the lease expired and Desco vacated the property.

Known use of chemicals on Site includes hydraulic and lubricating oils, paints, and solvents. A paint dip tank that formerly contained paint and 1,1,1-Trichloroethane (TCA) was located along the exterior of the southwestern wall of the Site. Although there is an allegation that Lincoln Hayward VI built the paint dip tank, information available to the Board staff indicates that it was Panel Clip that designed and constructed the dip tank.

3. **Named Dischargers**: Unauthorized releases of TCA and other solvents occurred from 1987 through 1992; during this period, Panel Clip, Lumberlok, and Desco were sequentially operating their businesses on the Site. Desco Corporation is named as a primary discharger as it continued the same business operation including the use of TCA as Lumberlok after it assumed all Lumberlok Corporation's assets and manufacturing operations at the Site. MiTek is named as a primary discharger by virtue of (i) its direct management control of Panel Clip and Lumberlok's business, and (ii) its corporate officers were interlocked with those of Lumberlok during that period. From the information available to the Board staff, it is believed that Panel Clip and Lumberlok, which are presently no longer in business, were wholly owned by and acting as the "alter ego" for MiTek. In ordinary course of Panel Clip's and Lumberlok's business, MiTek, Inc., exercised the necessary management and control of both Panel Clip and Lumberlok

Corporation's manufacturing activities on Site. Additionally, MiTek is also the corporate successor to the interests of Panel Clip and Lumberlok, and therefore, it is appropriate to name MiTek, Inc. as the one of the primary dischargers.

Lincoln Hayward VI, being the property owner since 1985, is also named as a primary discharger because it was the landowner during the time when the pollution occurred and either knew or should have known of the activities of its tenants.

If additional information is submitted indicating that other parties caused or permitted any waste to be discharged on the Site where it entered or could have entered waters of the State, the Board will consider adding that party's name to this Order.

4. **Site Hydrogeology**: The Site is located on the northeastern margin of the Niles Cone groundwater area, which geologically is in the East Bay Alluvial Plain of the San Francisco Bay Region. The Niles Cone aquifers are used for drinking water supply by the Alameda County Water District. Identified drinking water aquifers in this groundwater basin include the Newark Aquifer (60 to 140 feet below ground surface (bgs)), the Centerville Aquifer (180 to 200 feet bgs), and the Fremont Aquifer (300 to 390 feet bgs). These aquifers lie beneath an unconfined, shallow water-bearing zone (Shallow Zone). The soils below the Site were primarily composed of silty clay units to depths of 25 feet bgs, and silty sand and gravelly sand lenses are interbedded with the silty clay units from 25 to 45 feet bgs. The Shallow Zone groundwater flow direction is reportedly due west.

   Topographically the Site area is relatively flat with a gentle downward slope towards the southwest, in the direction of San Francisco Bay. Dry Creek is the nearest surface water body which is about 2,000 feet to the southeast of the Site.

5. **Remedial Investigation**: A pre-purchase subsurface investigation of the Property, which consisted of collecting six (6) soil samples and no groundwater samples from the 22-acre Property, including the Site, was performed by Lincoln Property Company (Lincoln Hayward VI thereafter) in July 1985. The results of that and subsequent soil and groundwater investigations conducted from 1993 to date did not indicate any unauthorized releases of chemicals associated with Foster's operation. Four (4) fuel underground storage tanks were subsequently removed from the Site with the consent of Hayward Fire Department.

   In May 1992, Desco ceased its manufacturing operation on Site, and initiated facility closure activities which included the sampling of shallow soil to assess the environmental impact due to its former business activities. Up to 60 mg/kg TCA were detected in shallow soil samples collected near the paint dip tank. Further subsurface investigations by Desco and Lincoln Hayward VI from 1992 to 1994 confirmed that soil and groundwater pollution resulting from past unauthorized releases of motor oil and TCA are present below the Site. Up to 1,800 ppb of TCA and 390 ppb of 1,1-

Dichloroethylene (DCE) were detected in groundwater samples collected from soil borings on-Site.

In April 1995, Lincoln Hayward VI performed an additional investigation comprising of the installation of a deep zone well and sampling of five (5) other on-Site monitoring wells. Eight (8) Shallow Zone wells located on the U.S. Pipe property were also sampled to help define the off-Site extent of the chlorinated solvent plume in groundwater. TCA and DCE were detected in the deeper water bearing zone. The extent of the pollution in the deep zone has not been defined yet.

6. **Interim Remedial Measures**: As a part of the facility closure activities, a limited amount of oily-stained soil was removed from the inside of the building. In contrast to the other primary dischargers, MiTek has not taken any responsibility to perform investigation and remediation work for the TCA pollution in groundwater. In light of the groundwater VOC pollution migrating off Site and affecting U.S. Pipe property, interim remedial measures need to be implemented at this Site to reduce the threat to water quality, public health, and the environment posed by the discharge of waste and to provide a technical basis for selecting and designing final remedial measures.

7. **Adjacent Sites**: U.S. Pipe is located adjacent to and downgradient of the Site. Currently U.S. Pipe is investigating and remedying its own subsurface pollution under the Board's Cleanup and Abatement Order (CAO) No. 94-190. Groundwater below the U.S. Pipe facility was reportedly polluted by elevated concentrations of metals exceeding the corresponding drinking water standards (MCLs). Additionally, hydraulic oil and petroleum hydrocarbons are continuously detected in groundwater samples collected from the Shallow Zone. According to U.S. Pipe, there are no TCA and/or similar solvents used on its own property.

8. **Regulatory Status**: This Site is currently not subject to Board order.

9. **Basin Plan**: The Board adopted a revised Water Quality Control Plan for the San Francisco Bay Basin (Basin Plan) on December 17, 1986, and the State Board approved it on May 21, 1987. The Board has amended the Basin Plan several times since then. The Basin Plan defines beneficial uses and water quality objectives for waters of the State, including surface waters and groundwaters.

The potential beneficial uses of groundwater underlying and adjacent to the Site include:

a. Municipal and domestic water supply
b. Industrial process water supply
c. Industrial service water supply
d. Agricultural water supply

An Alameda County Water District (District) drinking water well lies approximately

1,500 feet to the southeast of the Site. Due to the detection of high levels of manganese (exceeding drinking water standard) in groundwater samples collected from this well, the District has temporarily shut down the well.

The existing and potential beneficial uses of the San Francisco Bay, Dry Creek and contiguous waters include:

a. Wildlife habitat
b. Fish migration and spawning
c. Warm fresh water habitat
d. Contact and non-contact water recreation

10. **Other Board Policies**: Board Resolution No. 88-160 strongly encourages Dischargers of extracted, treated groundwater from site cleanups to reuse it or discharge it to the sanitary sewer.

Board Resolution No. 89-39, "Sources of Drinking Water," defines potential sources of drinking water to include all groundwater in the region, with limited exceptions for areas of high TDS, low yield, or naturally-high contaminant levels.

11. **State Water Board Policies**: State Water Board Resolution No. 68-16, "Statement of Policy with Respect to Maintaining High Quality of Waters in California," applies to this discharge and requires attainment of background levels of water quality, or the highest level of water quality which is reasonable if background levels of water quality cannot be restored. Non-background cleanup levels must be consistent with the maximum benefit to the people of the State, not unreasonably affect present and anticipated beneficial uses of such water, and not result in exceedance of applicable water quality objectives.

State Water Board Resolution No. 92-49, "Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under Water Code Section 13304," applies to this discharge. This Order and its requirements are consistent with the provisions of Resolution No. 92-49, as amended.

12. **Basis for 13304 Order**: The Dischargers have caused or permitted waste to be discharged or deposited where it is or probably will be discharged into waters of the State and creates or threatens to create a condition of pollution or nuisance.

13. **Cost Recovery**: Pursuant to California Water Code Section 13304, the Dischargers are hereby notified that the Board is entitled to, and may seek reimbursement for, all reasonable costs actually incurred by the Board to investigate unauthorized discharges of waste and to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action, required by this order.

14. **CEQA**: This action is an order to enforce the laws and regulations administered by the Board. As such, this action is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) pursuant to Section 15321 of the Resources Agency Guidelines.

15. **Notification**: The Board has notified the Dischargers and all interested agencies and persons of its intent under California Water Code Section 13304 to prescribe site cleanup requirements for the discharge, and has provided them with an opportunity to submit their written comments.

16. **Public Hearing**: The Board, at a public meeting, heard and considered all comments pertaining to this discharge.

IT IS HEREBY ORDERED, pursuant to Section 13304 of the California Water Code, that the Dischargers (or their agents, successors, or assigns) shall cleanup and abate the effects described in the above findings as follows:

A. **PROHIBITIONS**

1. The discharge of wastes or hazardous substances in a manner which will degrade water quality or adversely affect beneficial uses of waters of the State is prohibited.

2. Further significant migration of wastes or hazardous substances through subsurface transport to waters of the State is prohibited.

3. Activities associated with the subsurface investigation and cleanup which will cause significant adverse migration of wastes or hazardous substances are prohibited.

B. **TASKS**

If the Dischargers are delayed, interrupted, or prevented from meeting one or more of the completion dates specified for the following tasks, the Dischargers shall promptly notify the Executive Officer and the Board may consider revision to this Order.

1. **GROUNDWATER MONITORING WORKPLAN**

COMPLIANCE DATE: November 16, 1995

Submit a workplan acceptable to the Executive Officer proposing a groundwater monitoring program. The proposal shall include a time schedule for the implementation of monitoring of groundwater quality on- and off-Site, the types of groundwater analysis, the sampling protocol, procedure and frequency.

2. **REMEDIAL INVESTIGATION WORKPLAN**

COMPLIANCE DATE: December 15, 1995

Submit a workplan acceptable to the Executive Officer to define the vertical and lateral extent of soil and groundwater pollution. The workplan should specify investigation methods and include an implementation schedule for characterizing the source, nature, and extent of pollution on- and off-Site, and provide necessary and sufficient information about the lateral and vertical extent of the soil and groundwater pollution for the purpose of completing the subsequent feasibility study.

3. **COMPLETION OF REMEDIAL INVESTIGATION**

COMPLIANCE DATE: March 29, 1996

Submit a technical report acceptable to the Executive Officer documenting completion of necessary tasks identified in the Task 2 workplan. The technical report will be divided into two parts. Part I should include the results of the remedial investigation through which the vertical and lateral extent of pollution down to concentrations at or below cleanup standards (which are acceptable to the Executive Officer) for soil and groundwater is defined. Professional interpretation of the investigation results should be included in the report. Appropriate interim remedial alternatives applicable for the Site shall be evaluated based on the effectiveness, efficiency and other considerations. Based on the evaluation, your recommendation of one or more remedial alternatives shall be included in the report for the Board's review and approval. Part II of the report shall include a workplan proposing necessary steps to implement the recommended interim remedial alternatives. The workplan shall include an implementation time schedule. If groundwater extraction is selected as an interim remedial action, then one task will be the completion of an NPDES permit application for discharge of extracted, treated groundwater to waters of the State.

4. **COMPLETION OF INTERIM REMEDIAL ACTIONS**

COMPLIANCE DATE: August 30, 1996

Submit a technical report acceptable to the Executive Officer documenting completion of necessary tasks identified in the Task 3 workplan. For ongoing

actions, such as soil vapor extraction or groundwater extraction, the report should document start-up as opposed to completion. Should the approved interim remedial method consist of separate cleanup efforts, such as on-Site soil, on-Site groundwater, and off-Site groundwater remediation, each part should have a work plan followed by a technical report. The submittal of the final report for the last part of the approved interim remedial action shall meet this completion date.

5. **PROPOSED FINAL REMEDIAL ACTIONS AND CLEANUP STANDARDS**

COMPLIANCE DATE: January 31, 1997

Submit a technical report acceptable to the Executive Officer containing:

(a) Results of the remedial investigation
(b) Evaluation of the installed interim remedial actions
(c) Feasibility study evaluating alternative final remedial actions
(d) Risk assessment for current and post-cleanup exposures
(e) Recommended final remedial actions and cleanup standards
(f) Implementation tasks and time schedule

Items (b) and (c) should include projections of cost, effectiveness, benefits, and impact on public health, welfare, and the environment of each alternative action.

Items (a) through (c) should be consistent with the guidance provided by Subpart F of the National Oil and Hazardous Substances Pollution Contingency Plan (40 CFR Part 300), CERCLA guidance documents with respect to remedial investigations and feasibility studies, Health and Safety Code Section 25356.1(c), and State Board Resolution No. 92-49 as amended ("Policies and Procedures for Investigation and Cleanup and Abatement of Discharges under Water Code Section 13304").

C. PROVISIONS

1. **No Nuisance**: The storage, handling, treatment, or disposal of polluted soil or groundwater shall not create a nuisance as defined in California Water Code Section 13050(m).

2. **Good O&M**: The Dischargers shall maintain in good working order and operate as efficiently as possible any facility or control system installed to achieve compliance with the requirements of this Order.

3. **Cost Recovery**: The Dischargers shall be liable, pursuant to California Water Code Section 13304, to the Board for all reasonable costs actually incurred by the

Board to investigate unauthorized discharges of waste and to oversee cleanup of such waste, abatement of the effects thereof, or other remedial action, required by this Order. Since the Site addressed by this Order has been enrolled in a State Board-managed reimbursement program, reimbursement will be made pursuant to this Order and according to the procedures established in that program. Any disputes raised by the Dischargers over reimbursement amounts or methods used in that program shall be consistent with the dispute resolution procedures for that program.

4. **Access to Site and Records**: In accordance with California Water Code Section 13267(c), the Dischargers shall permit the Board or its authorized representative:

   a. Entry upon premises in which any pollution source exists, or may potentially exist, or in which any required records are kept, which are relevant to this Order.

   b. Access to copy any records required to be kept under the requirements of this Order.

   c. Inspection of any monitoring or remediation facilities installed in response to this Order.

   d. Sampling of any groundwater or soil which is accessible, or may become accessible, as part of any investigation or remedial action program undertaken by the Dischargers.

5. **Self-Monitoring Program**: The Dischargers shall comply with the Self-Monitoring Program as attached to this Order and as may be amended by the Executive Officer.

6. **Contractor/ Consultant Qualifications**: All hydrogeologic documents (plans, specifications, and reports) shall be signed by and stamped with the seal of a California registered geologist, a California certified engineering geologist, or a California registered civil engineer.

7. **Lab Qualifications**: All samples shall be analyzed by State-certified laboratories or laboratories accepted by the Board using approved EPA methods for the type of analysis to be performed. All laboratories shall maintain quality assurance/quality control (QA/QC) records for Board review. This provision does not apply to analyses that can only reasonably be performed on Site (e.g. temperature).

8. **Document Distribution**: Copies of all correspondence, technical reports, and other documents pertaining to compliance with this Order shall be provided to the

City of Hayward Fire Department and Alameda County Water District.

9. **Reporting of Changed Owner or Operator**: The Dischargers shall file a technical report on any changes in Site occupancy or ownership associated with the property described in this Order.

10. **Reporting of Hazardous Substance Release**: If any hazardous substance is discharged in or on any waters of the State, or discharged or deposited where it is, or probably will be, discharged in or on any waters of the State, the Dischargers shall report such discharge to the Regional Board by calling (510) 286-1255 during regular office hours (Monday through Friday, 8:00 to 5:00).

    A written report shall be filed with the Board within five working days. The report shall describe: the nature of the hazardous substance, estimated quantity involved, duration of incident, cause of release, estimated size of affected area, nature of effect, corrective actions taken or planned, schedule of corrective actions planned, and persons/agencies notified.

    This reporting is in addition to reporting to the Office of Emergency Services required pursuant to the Health and Safety Code.

11. **Periodic SCR Review**: The Board will review this Order periodically and may revise it when necessary. The Dischargers may request revisions and upon review, the Executive Officer may recommend that the Board revise these requirements.

I, Lawrence P. Kolb, Acting Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, San Francisco Bay Region, on October 18, 1995.

Lawrence P. Kolb
Acting Executive Officer

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FAILURE TO COMPLY WITH THE REQUIREMENTS OF THIS ORDER MAY SUBJECT YOU TO ENFORCEMENT ACTION, INCLUDING BUT NOT LIMITED TO: IMPOSITION OF ADMINISTRATIVE CIVIL LIABILITY UNDER WATER CODE SECTIONS 13267 OR 13350, OR REFERRAL TO THE ATTORNEY GENERAL FOR INJUNCTIVE RELIEF OR CIVIL OR CRIMINAL LIABILITY

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Attachments: Site Map
Self-Monitoring Program

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

SELF-MONITORING PROGRAM FOR:

DESCO CORPORATION
150 E. CAMPUS VIEW BOULEVARD
COLUMBUS, OHIO 43235

MITEK, INC., PANEL CLIP, AND LUMBERLOK
P.O. BOX 7359
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1. **Authority and Purpose**: The Board requests the technical reports required in this Self-Monitoring Program pursuant to Water Code Sections 13267 and 13304. This Self-Monitoring Program is intended to document compliance with Board Order No. 95-213.

2. **Monitoring**: The Dischargers shall measure groundwater elevations monthly for the first three months upon the adoption of this Order and quarterly thereafter in all monitoring wells, and shall collect and analyze representative samples of groundwater according to the Board approved monitoring program as required in Task B.1 of Board Order No. 95-213. The sampling and analysis requirements shall also be applicable to all newly installed monitoring or extraction wells on- and off-Site.

3. **Quarterly Monitoring Reports**: The Dischargers shall submit quarterly monitoring reports to the Board no later than 30 days following the end of the quarter. The first quarterly monitoring report shall be due on January 30, 1996. The reports shall include:

a. Transmittal Letter: The transmittal letter shall discuss any violations during the reporting period and actions taken or planned to correct the problem. The letter shall be signed by the Dischargers' principal executive officers or their duly authorized representatives, and shall include a statement by the officials, under penalty of perjury, that the report is true and correct to the best of the officials' knowledge.

b. Groundwater Elevations: Groundwater elevation data shall be presented in tabular form, and a groundwater elevation map should be prepared for each monitored water-bearing zone. Historical groundwater elevations shall be included in the fourth quarterly report each year.

c. Groundwater Analyses: Groundwater sampling data shall be presented in tabular form, and an iso-concentration map should be prepared for one or more key contaminants for each monitored water-bearing zone, as appropriate. The report shall indicate the analytical method used and detection limits obtained for each reported constituent. Historical groundwater sampling results shall be included in the fourth quarterly report each year. The report shall describe any significant increases in contaminant concentrations since the last report, and any measures proposed to address the increases. Supporting data, such as lab data sheets, need not be included (however, see record keeping - below).

d. Groundwater Extraction: If applicable, the report shall include groundwater extraction results in tabular form, for each extraction well and for the Site as a whole, expressed in gallons per minute and total groundwater volume for the quarter. The report shall also include contaminant removal results, from groundwater extraction wells and from other remediation systems (e.g. soil vapor extraction), expressed in units of chemical mass per day and mass for the quarter. Historical mass removal results shall be included in the fourth quarterly report each year.

e. Status Report: The quarterly report shall describe relevant work completed during the reporting period (e.g. site investigation, interim remedial measures) and work planned for the following quarter.

4. **Violation Reports**: If the Dischargers violate requirements in the Site Cleanup Requirements, then the Dischargers shall notify the Board office by telephone as soon as practicable once the Dischargers have knowledge of the violation. Board staff may, depending on violation severity, require the Dischargers to submit a separate technical report on the violation within five (5) working days of telephone notification.

5. **Other Reports**: The Dischargers shall notify the Board prior to any site activities, such as construction or underground tank removal, which have the potential to cause further migration of contaminants or which would provide new opportunities for site

investigation.

6. **Record Keeping**: The Dischargers or their agents shall retain data generated for the above reports, including lab results and QA/QC data, for a minimum of six (6) years after origination.

7. **SMP Revisions**: Revisions to the Self-Monitoring Program may be ordered by the Executive Officer, either on his/her own initiative or at the request of the Dischargers. Prior to making SMP revisions, the Executive Officer will consider the burden, including costs, of associated self-monitoring reports relative to the benefits to be obtained from these reports.

I, Lawrence P. Kolb, Acting Executive officer, hereby certify that this Self-Monitoring Program was adopted by the Board on October 18, 1995.

Lawrence P.Kolb
Acting Executive Officer